

Exhibit E

Colin McCabe

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

* * *

MICHAEL LASKEY,
Plaintiff,

- vs. -

CITY OF WARREN,
Defendant.

Case No. 12-4704-NF
Hon. Peter J. Maceroni

_____/

DEPONENT: COLIN MICHAEL McCABE

DATE: Tuesday, September 24, 2014

TIME: 12:02 p.m.

LOCATION: 29900 S. Civic Center
Warren, Michigan

REPORTED BY: JENNIFER DIANE CLAUSON, CSR-6867

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

* * *

MICHAEL LASKEY,
Plaintiff,

- vs. -

CITY OF WARREN,
Defendant.

Case No. 2:13-CV-14538
Hon. Arthur J. Tarnow
Mag. Paul J. Komives

_____/

DEPONENT: COLIN MICHAEL McCABE

DATE: Tuesday, September 24, 2014

TIME: 12:02 p.m.

LOCATION: 29900 S. Civic Center
Warren, Michigan

APPEARANCES:

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Appearing on behalf of the Plaintiff.

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{ I N D E X }

WITNESS PAGE

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* * *

E X H I B I T S PAGE # MARKED

----- Teolis Deposition Exhibit No. 2..53, 55, 65, 66 -----

(Mentioned)

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1 Walker?

2 A. Lake Odessa.

3 Q. And why did you leave City of Walker?

4 A. I was released from probation due to accidents.

5 Q. And when did you start at Odessa?

6 A. July or so --

7 Q. Of 2000 --

8 A. July of 2002.

9 Q. How long was that?

10 A. About eight months.

11 Q. So early part of '03 then?

12 A. May. Yeah, I left -- I started at Wayne State May

13 18th or May 19th, 2003.

14 Q. And then how long did you work at Wayne State?

15 A. Five years.

16 Q. So 2008?

17 A. Yes.

18 Q. Reason for leaving Lake Odessa?

19 A. To gain full-time employment.

20 Q. Lake Odessa was part-time?

21 A. Yes.

22 Q. Patrol officer?

23 A. Yes.

24 Q. Wayne State full-time?

25 A. Yes.

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1 Q. Patrol officer?

2 A. Yes.

3 Q. Reason for leaving?

4 A. To go to the City of Warren.

5 Q. When did you begin there?

6 A. May 19th, 2008.

7 Q. And you're there presently?

8 A. Yes.

9 Q. Capacity?

10 A. Police officer.

11 Q. Any rank?

12 A. Police officer.

13 Q. No supervising cap -- I mean authority?

14 A. No, those would be promotions.

15 Q. Ever been the subject of an Internal Affairs

16 investigation while at Warren?

17 A. Yes.

18 Q. How many?

19 A. I'm not sure.

20 Q. More than 10?

21 A. Any of the complaints -- citizen complaints they get

22 routed if they make it, they go to Internal

23 Affairs. So I don't know. If we don't -- if it's

24 not founded or we don't do an investigation or an

25 interview, then we don't -- a lot of them we don't

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1 know about. So --

2 Q. Okay. We're here to talk about an incident

3 involving Mr. Laskey which occurred on October 31st,

4 2011. You were working with your partner, Kimberly

5 Teolis, is that correct?

6 A. Yes.

7 Q. Was she your regular partner?

8 A. Yes.

9 Q. Okay. You were driving that day?

10 A. Yes.

11 Q. And Teolis was the front seat passenger?

12 A. That's correct.

13 Q. My understanding is that on this occasion, you were

14 called out at your normal sector that you worked

15 at --

16 A. That's correct.

17 Q. -- is that correct?

18 A. Yes, that's correct.

19 Q. And the reason for that was?

20 A. We got a peeping Tom run on the north end of the

21 city.

22 Q. Was any description given of this peeping Tom at the

23 time you were dispatched?

24 A. Yes.

25 Q. And what was that description?

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1 A. It was a known suspect. So I don't remember the

2 exact description. It was a younger male wearing a

3 black and white jacket.

4 Q. Now, when you say it was a known suspect, what does

5 that mean?

6 A. The person who called in the complaint knew who it

7 was.

8 Q. Okay. Did they give a name?

9 A. Yes.

10 Q. And what name did they give?

11 A. I would have to refer to my report. I think it's --

12 I don't remember the exact name.

13 Q. Did you draft a report?

14 A. No.

15 Q. Okay. So when you say my report, you're referring

16 to Officer Teolis, correct?

17 A. That's correct?

18 Q. With respect to this incident, did you author any

19 reports at all?

20 A. No reports, no.

21 Q. Okay. Did you complete any use of force reports?

22 A. I don't remember.

23 Q. Does Warren have a use of force report back in

24 October of 2011?

25 A. Yeah.

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1 Q. Okay. And when are you supposed to fill that out?

2 A. When force is used. It's -- it's a -- it's up to

3 each officer whether they deem it like necessary to

4 do a use of force report. If the force uses -- is

5 enough to like warrant a use of force report. So

6 like if injury is likely or anything like that.

7 Q. So basically the policy of Warren is the officer

8 gets to choose if they do a use of force report,

9 it's up to their discretion?

10 A. Well, there are set specific guidelines for a use of

11 force report, but like minimal stuff like muscling

12 techniques, it depends on whether you figure that

13 that's enough to warrant a use of force report.

14 Q. So again --

15 A. Like pulling someone's arm back can go either way.

16 Q. Again, discretion?

17 A. Yes.

18 Q. To the officer?

19 A. Yes.

20 Q. Two officers could be on the scene, see the same

21 thing, one might think you should write a report,

22 the other might not think so, correct?

23 A. Sure.

24 Q. In this case, you've already talked about muscling

25 techniques. So obviously you've already read the

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1 Q. Name of David McKenna, do you remember that?

2 A. Yes.

3 Q. That perpetrator is wearing a black and white jacket

4 looking in a window, correct?

5 A. That's correct.

6 Q. Any description of height, weight given?

7 A. I don't remember.

8 Q. And when you got the run, you and your partner

9 proceeded to go to the area of 28640 Newport, is

10 that correct?

11 A. That's correct.

12 Q. And while at -- did you ever make it to that

13 location?

14 A. No.

15 Q. Okay. While en route to that, you saw my client, is

16 that correct?

17 A. That's correct.

18 Q. And at the first time you would have seen him would

19 have been at a distance, correct?

20 A. Yes.

21 Q. Okay. Was -- were the two of you heading toward

22 each other?

23 A. Yes.

24 Q. Okay. And do you remember where -- what direction

25 you were heading?

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1 incident report because that's the phrase used

2 there. So you've read the report today, correct?

3 A. That's correct.

4 Q. Should there have been a use of force report done?

5 A. I did not -- I don't believe I completed one. So I

6 did not do one.

7 Q. Okay. Who would do a use of force report, you or

8 your partner?

9 A. Either.

10 Q. Okay. In your opinion, should one have been done?

11 A. No.

12 Q. And why not?

13 A. The force used to effect an arrest in this was very

14 minimal. Just pulling his arms back, rolling him

15 over.

16 Q. Other than this being a known suspect, any other

17 information you were given from dispatch; race,

18 gender, age?

19 A. Yeah, they gave --

20 Q. Clothing wearing?

21 A. Yeah, as I said earlier, it was a -- they gave a

22 clothing description and an age and a name.

23 Q. The report indicates a white male, 21, does that

24 sound about right?

25 A. Yes.

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1 A. I was heading east.

2 Q. East on what street?

3 A. Martin.

4 Q. So he would be heading west on Martin?

5 A. Correct.

6 Q. And where was -- what was he riding?

7 A. He was riding a bicycle.

8 Q. Was it a pedal bike?

9 A. It was a motorized bike.

10 Q. Okay. Did you see the motor?

11 A. No.

12 Q. How do you know it was motorized?

13 A. Because we took it to the station and he wasn't

14 pedaling as we chased after him.

15 Q. Did you see a motor?

16 A. No.

17 Q. Did you see a chain?

18 A. I don't remember.

19 Q. You didn't look, did you?

20 A. No.

21 Q. Okay. Did you hear anything? Did the bike make any

22 noise?

23 A. I don't recall.

24 Q. Did the bicycle have any type of flashers or

25 anything like that?

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1 A. I don't believe so.

2 Q. Any reflectors that you recall?

3 A. No.

4 Q. So the first time you see him the two of you are

5 heading toward each other and where is he on his

6 bike at? Is he in the street, sidewalk?

7 A. He's on the sidewalk on the north side of Martin.

8 Q. And as you approach him, does there come a time when

9 you approach him?

10 A. Yes.

11 Q. Okay. How close do you get at that point?

12 A. I pulled to the north side curb as he's riding up to

13 me and I tell him to stop. I roll down my window

14 and told him to stop.

15 Q. How close are you?

16 A. 20 feet.

17 Q. You're still moving at that point?

18 A. No, I pulled to the north side curb and stopped.

19 Q. So did you pull ahead of him or how --

20 A. I pulled in front of him. He's coming towards me,

21 so I just stopped short and let him come to me.

22 Q. Okay. Did he slow down at all?

23 A. No.

24 Q. Did you identify yourself as a police officer?

25 A. I did not, no.

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1 Q. Your window down?

2 A. Yes.

3 Q. What'd you say?

4 A. Stop.

5 Q. Did he have a response?

6 A. No.

7 Q. So he didn't -- did he give you any gestures,

8 anything like that?

9 A. No.

10 Q. So he just kept on going?

11 A. Yes.

12 Q. Did he speed up or go at the same pace?

13 A. Same pace.

14 Q. How many times did you tell him to stop at this

15 point?

16 A. Just once.

17 Q. Were you in a fully marked police car?

18 A. Yes.

19 Q. Where were the emergency lights located? Were they

20 in the grille, were they in the front window dash,

21 were they on top?

22 A. They're on top.

23 Q. Okay. Have all the markings and emblems of a

24 standard police car?

25 A. Yes.

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1 Q. And you were dressed how?

2 A. In a full uniform like I was -- like I am today.

3 Q. Okay. And it's dark navy blue with the arm patches,

4 badge, duty belt, gun, handcuffs, stuff like that?

5 A. That's correct.

6 Q. What did you do when Mr. Laskey passed you?

7 A. I did a u-turn. I came back out to Hoover. At this

8 point, he was through Hoover. I activated my

9 overhead lights, went through Hoover, and then I

10 pulled along side of him. And at this point, he's

11 now on the south side of the road on the sidewalk on

12 Hoover.

13 Q. Okay. Let's stop you there. So you activate your

14 overhead lights. Do you keep your overhead lights

15 on or do you just activate them when you go through

16 the intersection?

17 A. I'm not sure.

18 Q. So you don't know if you kept them on or not?

19 A. I don't.

20 Q. Okay. Did you ever give a horn burst?

21 A. No.

22 Q. Siren burst?

23 A. No.

24 Q. Ever activate your sirens?

25 A. No.

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1 Q. Ever go on the loud speaker?

2 A. No.

3 Q. So you do a u-turn and you come up along side of

4 him, correct?

5 A. Yes.

6 Q. Okay. He is on the sidewalk again?

7 A. Yes.

8 Q. And he's going what direction on what street at this

9 point?

10 A. He's still on Martin. He's traveling westbound on

11 the south side of the street.

12 Q. And can you estimate how fast he was going?

13 A. Not very. Bicycle speed.

14 Q. Okay.

15 MR. MORRIS: Objection, speculation.

16 Q. (BY MR. CABOT): You were driving, right?

17 A. Yes.

18 Q. Did you ever look at your speedometer and see how

19 fast you were going when you pulled up to him?

20 A. No.

21 Q. Can you give me an estimate? Was it more or less

22 than five miles an hour?

23 MR. MORRIS: Objection, speculation.

24 Q. (BY MR. CABOT): Go ahead.

25 A. 10 miles an hour maybe.

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1 Q. Pardon?

2 A. 10 miles an hour maybe.

3 Q. Do you think it was more than that?

4 A. I don't know.

5 MR. MORRIS: Continuing objection on this

6 line.

7 Q. (BY MR. CABOT): So you pull up to him, he's on the

8 sidewalk again, right?

9 A. Correct.

10 Q. Okay. Does he have a hat on?

11 A. I don't know.

12 Q. Does he have any bags with him like lunch boxes,

13 backpacks, bags?

14 A. I don't know.

15 Q. So what do you do when you pull up to him?

16 A. Continue -- I told him to stop again.

17 Q. Did you announce yourself as a police officer at

18 this time?

19 A. No.

20 Q. How many times did you tell him to stop at this

21 point?

22 A. Just once.

23 Q. And what response, if any, was given?

24 A. He says no, I'm going to work.

25 Q. Any reason to dispute that?

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1 A. No.

2 Q. He didn't say anything like fuck you or get out of

3 my face pigs or anything like that, did he?

4 A. No, sir.

5 Q. Okay. Did he speed up at this point?

6 A. No.

7 Q. So he's going at the same pace he has been?

8 A. That's correct.

9 Q. So he says no, I'm going to work, and then what

10 happens?

11 A. I hit him with my spotlight and tell him to stop

12 again.

13 Q. And -- now, when you hit him with the spotlight, you

14 -- are you still along side of him or are you behind

15 him at this point?

16 A. We're roughly in the area like along side of him.

17 I'm not sure if we were behind him or next to him or

18 --

19 Q. Okay. Did you shine the spotlight on him so it hits

20 his eyes do you presume?

21 A. Yes.

22 Q. Okay. It's a pretty sharp -- it's a pretty bright

23 light, isn't it?

24 A. If you look at it.

25 MR. MORRIS: Objection, form.

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1 Q. (BY MR. CABOT): And you shined it on his face

2 though?

3 A. Shined it on him. It's not a directed beam. It's a

4 large --

5 Q. Right.

6 A. -- dome light.

7 Q. But the dome light that bright light would hit his

8 face and eyes, wouldn't it?

9 A. Yes.

10 Q. Okay. So you tell him to stop again. Any verbal

11 response to that?

12 A. He just said no.

13 Q. Okay. Does he speed up or does he maintain the

14 speed approximately?

15 A. He maintains the same speed.

16 Q. Okay. He doesn't tell you to fuck you, get out of

17 here, nothing like that, does he?

18 A. No.

19 Q. Doesn't threaten you or your partner in any way,

20 correct?

21 A. Nope.

22 Q. Doesn't do anything physical or throw anything at

23 you guys, nothing like that, right?

24 A. No.

25 Q. Okay. So then what happens?

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1 A. I pull onto Santa Ana, which is approximately two

2 houses in front of him and stop in front of the

3 sidewalk.

4 Q. So if I understand correctly then, you would pass

5 him?

6 A. Yes.

7 Q. And so you would then -- your u-turn would be to the

8 left?

9 A. It's not a u-turn. It's just a left turn.

10 Q. Okay. So you made a left turn onto what street?

11 A. Santa Ana.

12 Q. And in doing that, making that left turn, that would

13 cut off his path of travel, correct?

14 A. That would put me in front of his path of travel,

15 yes.

16 Q. Okay. When you made that left-hand turn, can you

17 approximate for me the distance from your car to

18 where Mr. Laskey was?

19 A. He was a couple houses down still.

20 Q. Okay. Any estimate of distance?

21 A. Hundred feet.

22 Q. And once you turn onto Santa Ana, what do you do?

23 A. Stop.

24 Q. Complete stop?

25 A. Yes.

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1 Q. And he's still on the sidewalk, right?

2 A. Yes.

3 Q. And when you make your complete stop, do you stop in

4 front of the sidewalk?

5 A. Yes.

6 Q. How far from the end of that sidewalk where going to

7 the road were you parked?

8 A. Three feet maybe.

9 Q. Spotlight still on at this point?

10 A. I don't know.

11 Q. Were your overhead lights still on at this point?

12 A. I don't know.

13 Q. If the spotlight was still on aimed at him, is it

14 possible somebody would have had --

15 MR. MORRIS: Objection, speculation.

16 Q. (BY MR. CABOT): Is it possible somebody would have

17 difficulty seeing?

18 A. If the spotlight hits him in the eyes?

19 Q. Yeah.

20 A. Sure.

21 Q. Okay. So my understanding is your vehicle comes to

22 a complete stop basically at the end of the sidewalk

23 and there's about a three-foot distance between the

24 car and what we'll call the side sidewalk curb --

25 A. Sure.

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1 Q. Okay. It never struck you to maybe try to move your

2 car out of his way?

3 A. No.

4 Q. Why not?

5 A. At this point, we were trying to effect a traffic

6 stop and he's fleeing from us. So at this point,

7 we're trying to get out and stop him.

8 Q. What -- what's he being -- what's he being arrested

9 for?

10 A. Well, the failing to pull over at this point. It's

11 just a reasonable suspicion stop at the point, but

12 as soon as he refuses, that's a crime. He already

13 refused three times not to pull over.

14 Q. So --

15 A. At this point, we're trying to detain him.

16 Q. So you're telling me that for investigatory stop,

17 he's under a legal obligation to stop and talk to

18 you?

19 MR. MORRIS: Objection, calls for a legal

20 conclusion.

21 Q. (BY MR. CABOT): Is that what you're telling me?

22 A. Yes.

23 Q. Okay. And your basis for that is?

24 A. Law.

25 Q. Okay.

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1 Q. -- is that accurate?

2 A. That's accurate.

3 Q. What happens next?

4 A. I waited for him to stop as were ordered to do so

5 and he tried to go around our police car striking

6 our police car.

7 Q. Now, when you made the complete stop, did you tell

8 him to stop again?

9 A. You mean aside from the other three times? No.

10 Q. Was it three times or twice? It doesn't matter. At

11 this point, I wanna know once you made that left

12 turn and stopped your car, did you tell him to stop

13 at any point subsequent to that?

14 A. No.

15 Q. Was there contact made with your car and Mr. Laskey?

16 A. Yes.

17 Q. Okay. Are you watching him the whole time?

18 A. Yes.

19 Q. Do you ever try to move your car out of his way?

20 A. No.

21 Q. Did it ever appear to you hey, this guy's not

22 stopping? Did it -- did you ever think that?

23 A. No.

24 Q. Did he slow down?

25 A. I don't think so.

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1 MR. MORRIS: Again, objection, calls for a

2 legal conclusion.

3 Q. (BY MR. CABOT): So if I'm on the street and I'm

4 walking down the street let's say we go out to the

5 police station here today and I'm walking to my car

6 and you're on duty and you say hey, Cabot, stop, I

7 wanna talk to you, and I just keep going or I say

8 no, you can arrest me at that point?

9 A. The law allows me if I have reasonable suspicion to

10 stop somebody if criminal activity is afoot, that I

11 can stop somebody and their refusal to do so

12 constitutes a crime.

13 Q. And what was your reasonable suspicion? Did he

14 match -- match the age description?

15 A. He matched the description coming from the area of a

16 known peeping Tom.

17 Q. What description did he match of this peeping Tom?

18 A. He had a black and white jacket on.

19 Q. Okay. Other than that?

20 A. That's all we could see at five in the morning.

21 Q. Okay. When you were along side of him and within

22 feet of him, you couldn't determine an age?

23 A. No.

24 Q. Why not?

25 A. It's dark.

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1 Q. You had your spotlight on him, you couldn't
 2 determine an age at that point?
 3 A. No.
 4 Q. Why not?
 5 A. I don't know.
 6 Q. So you see him coming at you, you're stopped,
 7 doesn't cross your mind that he's not gonna stop, I
 8 need to move my car, right?
 9 A. That's correct.
 10 Q. So you don't move your car, right?
 11 A. Nope.
 12 Q. And how long had you been stopped fully between that
 13 time and the time contact is made with the vehicle?
 14 A. 10 seconds maybe.
 15 Q. Okay. And what part of the vehicle does he hit?
 16 A. The driver side quarter -- front quarter panel.
 17 Q. And could you define to me what that means to you?
 18 A. It's the piece of metal that goes over the wheel
 19 well on the driver side between the door and the
 20 bumper.
 21 Q. Okay. So did he hit that wheel well part, the kind
 22 of curve piece over the tire or did he hit somewhere
 23 else in the quarter panel?
 24 A. I'm not sure.
 25 Q. Okay. Was there any damage to the vehicle?

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1 your testimony is?
 2 A. He tried to make his way in between the sidewalk and
 3 the three feet that's in between our car and the
 4 sidewalk to go around our police car and in doing so
 5 at the angle he took, he hit the front of our car.
 6 Q. So according to your testimony, he's coming down the
 7 sidewalk, you're about three foot away from the end
 8 of the sidewalk and the curb there and so you would
 9 what? Make sort of like a -- try to make a --
 10 somewhat of a left turn?
 11 A. Yes.
 12 Q. And then the front wheel hits I think you said
 13 around the wheel well?
 14 A. That's correct.
 15 Q. So that's the first part of the bike that hits the
 16 car, correct?
 17 A. Yes.
 18 Q. Does any part of Mr. Laskey's body hit the car?
 19 A. I don't know.
 20 Q. Does Mr. Laskey do you see him fly on the hood at
 21 all?
 22 A. No.
 23 Q. Okay. Does he fall off the bike?
 24 A. Yes.
 25 Q. Okay. So immediately when he hits the car, he flies

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1 A. No.
 2 Q. Okay. You were in the car when he -- when there was
 3 contact, right?
 4 A. That's correct.
 5 Q. Did you feel the car move?
 6 A. No.
 7 Q. Pardon?
 8 A. No.
 9 Q. Any idea why your partner said she felt the car
 10 move?
 11 A. I don't know what she said.
 12 Q. Okay.
 13 MR. MORRIS: Objection, calls for speculation.
 14 Q. (BY MR. CABOT): So you didn't feel the car move
 15 when contact was made, correct?
 16 A. No.
 17 Q. That's correct?
 18 A. That's correct.
 19 Q. Okay. What part of his bike hit the car first?
 20 A. The wheel.
 21 Q. The front wheel?
 22 A. Yes.
 23 Q. Okay. So it's kind of like a t-bone situation?
 24 A. He tried to go around. So yeah, like t-bone angle.
 25 Q. Why don't you describe what he tried to do from what

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1 off the bike, right?
 2 A. Well, the bike goes down. He ends up on his feet.
 3 The bike goes down. He starts like coming backwards
 4 off the bicycle.
 5 Q. Well, let's kind of take this step-by-step here. So
 6 he hits the front wheel of his bike to the wheel
 7 well of your front wheel well of the car, right?
 8 A. That's correct.
 9 Q. Does he get off of the bike after the impact or does
 10 he fall, if you know?
 11 A. I'm not sure what you're asking.
 12 Q. Okay. Does he fall to the ground?
 13 A. No.
 14 Q. Okay. So he hits the car. Then what does he do?
 15 A. The bike falls to the ground. He ends up staying on
 16 his feet. I mean he goes forward, hands up -- with
 17 his hands on the hoodish and then he ends up staying
 18 on his feet. As I'm getting out of the car, he
 19 starts backing up like to try and keep his balance.
 20 Q. So what contact with his body do you see with the
 21 car? Hands, right?
 22 A. Yes.
 23 Q. Was it arms, elbows, shoulders?
 24 A. I'm not sure.
 25 Q. Do you know if it his stomach or chest came in

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1 contact with it?

2 A. I don't.

3 Q. Do you know if his head came in contact with

4 anything?

5 A. I don't.

6 Q. You don't?

7 A. No.

8 Q. Okay. So after this collision occurs, the bike

9 falls to the ground?

10 A. That's correct.

11 Q. But he stays on his feet?

12 A. Yes.

13 Q. Okay. Where does the bike end up in relationship to

14 the car?

15 A. Laying next to it.

16 Q. Any part of the bike underneath the car?

17 A. I don't know.

18 Q. In any of the seconds after that impact, your

19 testimony is Mr. Laskey did not fall to the ground,

20 correct?

21 A. That's correct.

22 Q. You didn't see him fall on his bike, correct?

23 A. No.

24 Q. So your testimony is that the bike falls and he's

25 standing on his two feet essentially?

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1 A. Well, he's losing his balance, but I mean he

2 maintained control pretty much.

3 Q. Okay. So then what happens?

4 A. I exit my car.

5 Q. Does your partner exit?

6 A. I believe -- she does at some point. I'm not sure

7 when she did.

8 Q. Gun drawn for you?

9 A. No.

10 Q. Did you ever draw your gun?

11 A. No.

12 Q. Did your partner draw her gun?

13 A. No.

14 Q. Did you ever see her draw her gun?

15 A. No.

16 Q. Any need to draw a gun?

17 A. No.

18 Q. Before I forget about it, let's talk about the video

19 a little bit. Have you ever watched a video of

20 this?

21 A. No.

22 Q. Okay. Was your car equipped with video?

23 A. Yes.

24 Q. Are you supposed to check the video equipment as the

25 driver at the beginning of every shift?

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1 A. Yes.

2 Q. Do you fill out a form saying you checked it and

3 it's working order?

4 A. Just so you note it on your log sheet.

5 Q. Okay. Was your video working on this day?

6 A. Yes.

7 Q. Rear and front recording, correct?

8 A. I don't know. I'm not sure what system we had at

9 that time. So I'm not sure if we had a back seat

10 camera then.

11 Q. Okay.

12 A. That was three years ago. We've switched systems

13 and our current system we have now has back seat

14 camera and that turns on when we turn it on. The

15 old system that we had had a camera like a camera on

16 that once when somebody was in custody, we would

17 turn it around and put it in the back seat. But we

18 had a front seat camera.

19 Q. Okay.

20 A. Front forward camera.

21 Q. But that would only do the hood area, correct?

22 A. Yeah.

23 Q. Okay.

24 A. Yes.

25 Q. How often does that video camera run? Is it running

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1 continuously, is it only running when overhead

2 lights are activated, you have to physically

3 activate it, how does that work?

4 A. If it's -- it had to be on the new system. So it's

5 -- it runs all the time at a frame rate of like one

6 frame every four seconds or four frames a second.

7 I'm not sure of the exact statistics, but it's --

8 Q. Well, if it helps you with your testimony, I'll just

9 tell you, and I think your counsel will stipulate,

10 that there appears to be a rear camera that shows

11 somebody in the back seat and a front facing camera.

12 A. Okay. So it's our newer stuff. So it runs at like

13 -- to save space, it runs of not like full frames.

14 Q. Okay.

15 A. Until you activate your overhead lights and then it

16 acts like a DVR and it backs up 30 seconds and then

17 it's full-frame rate from 30 seconds prior and then

18 it runs at full frames like during the incident.

19 Q. So it doesn't erase anything --

20 A. No.

21 Q. -- if you're stopped?

22 A. No.

23 Q. So if you're stopped, it's doing like one frame for

24 every four seconds if your vehicle is not moving?

25 A. It's more than that, but like if you watch that

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1 part, it's like glitchy. It just --
 2 Q. I gotcha. I'm just trying to understand. So we'll
 3 just use this four seconds.
 4 A. Okay.
 5 Q. Understanding in the record that we're not saying it
 6 is four seconds, but for purposes of explanation.
 7 So you got maybe four seconds or so for every piece
 8 of segment -- movie segment?
 9 A. Sure.
 10 Q. If the vehicle's stationary and not moving, correct?
 11 A. If the -- if you haven't turned it on or activated
 12 lights. It's doing this all the time even with the
 13 car moving.
 14 Q. Okay.
 15 A. It does that for the full 12 hours.
 16 Q. But then when does it do what we'll call the
 17 real-time?
 18 A. As soon as you activate the overhead lights --
 19 Q. Okay.
 20 A. -- it backs up 30 seconds and starts from 30 seconds
 21 prior to you activating your lights.
 22 Q. But it doesn't erase what was already there?
 23 A. No, it just saves the -- the full frames. 'Cause as
 24 you're driving around, it's recording full frames,
 25 but it only saves like four frames a second.

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1 Q. Okay.
 2 A. If you don't need it like if you didn't activate
 3 your lights. So it's like a DVR. It's like you're
 4 watching DVR and then you wanna back up, it records
 5 like the stuff that's behind it until you run out of
 6 time.
 7 Q. So the -- so it does real-time when you activate
 8 your overheads?
 9 A. 30 seconds before that, yes.
 10 Q. Yeah. Would if you're moving and the overheads
 11 aren't on and it does this delayed?
 12 A. Yes.
 13 Q. Okay. Can you make it -- if the overhead lights
 14 aren't on, can you make it record real -- what I'll
 15 call real-time?
 16 A. Yes.
 17 Q. And how do you do that? A switch?
 18 A. You just hit a button, yeah.
 19 Q. Okay. When Mr. Laskey and the squad car connected,
 20 do you know if the overhead lights were on?
 21 A. I don't.
 22 Q. Based upon what you just told me, what would your
 23 belief be how it was recording? Was it doing
 24 real-time or was it recording in like the DVR --
 25 A. It would have been real-time. I activated my

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1 overhead lights to go through the intersection. I'm
 2 sure it would have turned on then.
 3 Q. Okay. So it was -- your overhead lights were still
 4 on when the contact with Mr. Laskey --
 5 A. I don't know.
 6 Q. -- and the car?
 7 A. If you turn them off, it still -- even if you turn
 8 your overhead lights off, it still -- it still
 9 continues to record.
 10 MR. MORRIS: I'm going to object, asked and
 11 answered.
 12 Q. (BY MR. CABOT): And it records audio too?
 13 A. Yes.
 14 Q. Do you have the ability -- or does an officer have
 15 the ability to cut the audio in and out?
 16 A. Yes.
 17 Q. Okay. Probably like a button on like a belt pack or
 18 something?
 19 A. Yes.
 20 Q. So we're at the point where Mr. Laskey's bikes on
 21 the ground, he's standing on his two feet, you get
 22 out of your car, your partner gets out of the car,
 23 what happens next?
 24 A. I grab his arm.
 25 Q. Which arm?

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1 A. The left arm, I believe.
 2 Q. And why did you grab the left arm?
 3 A. Because that was what was closest to me at the time.
 4 Q. Was he trying to run from you?
 5 A. No.
 6 Q. Then why did you touch him?
 7 A. Because we were going to detain him.
 8 Q. Okay. Did you tell him hey, we wanna talk to you?
 9 A. I mean aside from the other three times?
 10 Q. Well, now -- now, he's standing there. He's not
 11 trying to run from you. Did you say hey, we wanna
 12 talk to you?
 13 A. No.
 14 Q. Okay. So instead, you just grab his left arm,
 15 right?
 16 A. Correct.
 17 Q. And what -- what happens then?
 18 A. I grab him by the arm, he says -- he says he wants
 19 to call his lawyer. We go backwards, I order him to
 20 the ground and --
 21 Q. Let me stop you there. You said we go backwards.
 22 It is just still you and him at this point or is
 23 your partner there?
 24 A. It's just me and him I think at that point.
 25 Q. Okay. And he says he wants to call his lawyer, you

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1 say the two of you start to go backward. Do you
 2 fall?
 3 A. I -- I don't fall. He starts going backwards with a
 4 little bit of force and we just put him on his butt.
 5 Q. And who put him on his butt?
 6 A. I did.
 7 Q. Okay. Did you partner was she there?
 8 A. Yes.
 9 Q. Did she assist in pushing him down?
 10 A. I don't know if she had ahold of him at that point
 11 or not.
 12 Q. Did you ask him to get down on his own?
 13 A. No.
 14 Q. Why didn't you ask him to get down on the ground?
 15 A. Cause it was all -- it all happened real time. We
 16 got out, get here --
 17 Q. Nothing --
 18 A. I ordered him on the ground, but I was like I
 19 grabbed him, pulled him backwards as he was falling
 20 backwards, and we just set him down.
 21 Q. You did order him to the ground?
 22 A. Yes.
 23 Q. When?
 24 A. As I was getting out of the car and grabbed him.
 25 Q. Okay. And did he try to get down on the ground?

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1 A. Disobeying lawful commands the entire time.
 2 Q. Being on the street you say stop, he doesn't, and
 3 now you tell him get down, he didn't do it --
 4 A. That's correct.
 5 Q. -- that's what we're talking about? Okay. But up
 6 to this point to the time he gets on his butt, he's
 7 not physically resisting you, is he?
 8 A. No, he's not assaultive.
 9 Q. Okay. He's not trying to flee you, is he?
 10 A. Well, he's -- he had failed to stop for the past --
 11 Q. But that's --
 12 A. -- three minutes.
 13 Q. But I'm talking about once you get out of the car,
 14 he's not trying to flee, right?
 15 A. Well, he's falling backwards at that time. I don't
 16 know what he's doing at that point.
 17 Q. Well, you indicate falling. So it doesn't mean he's
 18 trying to run backwards, does it?
 19 A. Well, I'm not sure what his intentions are at that
 20 point.
 21 Q. Okay.
 22 A. That's why I grabbed ahold of him.
 23 Q. All right. So you -- maybe you and your partner
 24 push him down, your testimony is he lands on his
 25 butt, right?

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1 A. He was walking back. We just all did it together.
 2 It's all one --
 3 Q. So he wasn't --
 4 A. -- fluid motion.
 5 Q. -- getting down fast enough or what?
 6 A. I grabbed ahold of him. He's losing his balance
 7 walking backwards and so I set him down.
 8 Q. Do you already have ahold of him when you tell him
 9 to get down?
 10 A. Yes.
 11 Q. Okay. So who pushes him to the ground then?
 12 A. Me.
 13 Q. You and your partner or just you?
 14 A. I'm not sure if she was there at that point.
 15 MR. MORRIS: Object, asked and answered.
 16 Q. (BY MR. CABOT): And how does he land?
 17 A. On his butt.
 18 Q. Is he giving you a hard time at all?
 19 A. No, he's just not being compliant.
 20 Q. What does that mean?
 21 A. He's not putting his arms behind his back. He's not
 22 rolling over like we tell him to.
 23 Q. Okay. Well, let's stop there because we haven't got
 24 to that point, but up to the point where he sits on
 25 his butt, how has he been resistant, if he has?

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1 A. Yes.
 2 Q. Then what happens?
 3 A. We order him to roll over. He refuses to roll over.
 4 Q. Does he say anything?
 5 A. He said he's gonna call his attorney.
 6 Q. Okay. Does he say he's not going to roll over?
 7 A. No.
 8 Q. Does he try to get up?
 9 A. He's moving around. He's just not like physically
 10 fighting. He's just resisting.
 11 Q. How is he moving around?
 12 A. Just wiggling. Like pulling his arms in. You know,
 13 just actively resisting, but not fighting.
 14 Q. Okay. So he says he's gonna call his lawyer, then
 15 what happens?
 16 A. Once we tell him to roll over and he refuses, we
 17 roll him over and with, you know, some minimal
 18 effort, we pull -- you know, pull his hands from
 19 underneath him and put them behind his back and
 20 place him in handcuffs.
 21 Q. Was he tensing up?
 22 A. Yes.
 23 Q. His body weight was on his hands at this point,
 24 right?
 25 A. He had his hands underneath him. Once we rolled him

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1 over, and he was pulling into like a fetal position.
 2 Q. The natural -- wouldn't you say that's a natural
 3 occurrence when somebody rolls on their stomach or
 4 --
 5 MR. MORRIS: Object --
 6 Q. (BY MR. CABOT): Once they roll on their stomach?
 7 MR. MORRIS: Objection, calls for speculation.
 8 A. I wouldn't say it's natural. It's common to resist
 9 that way, yes.
 10 Q. (BY MR. CABOT): Or is it common to be protect and
 11 land on something other than your bare chest on the
 12 ground so its natural tendency a lot of people bring
 13 their hands in, don't they?
 14 MR. MORRIS: Again, objection, calling for
 15 speculation.
 16 Q. (BY MR. CABOT): Correct?
 17 A. Yeah, I don't know.
 18 Q. They bring their hands in a lot, don't they?
 19 A. Yes, when people are resisting, yes, they bring
 20 their hands in, yes.
 21 Q. Even when they're not resisting, isn't it a natural
 22 tendency when you're on your stomach to bring
 23 something underneath you to cushion you?
 24 A. No.
 25 Q. You don't agree with that?

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1 Q. Okay. But I'm asking to deliberately jam a knee in
 2 the back there was no need to do that --
 3 A. No.
 4 Q. -- in this case, was there?
 5 A. There's never a need to do it.
 6 Q. And that would be -- that would be excessive,
 7 wouldn't it?
 8 A. Clearly.
 9 Q. Okay. So just so the record's clear, did you put a
 10 knee in his back?
 11 A. No.
 12 Q. Did you see any other officer put a knee in the
 13 back?
 14 A. I don't recall.
 15 Q. Do you know if any officer put a knee in the back?
 16 A. I don't.
 17 Q. Okay. At some point, is he handcuffed?
 18 A. Yes.
 19 Q. He's handcuffed behind him?
 20 A. I'm not sure what that means.
 21 Q. Did you cuff -- bring his arms behind him and
 22 handcuff him behind his back?
 23 A. Yes.
 24 Q. Okay. Who actually cuffs him?
 25 A. Oh, I'm not sure.

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1 A. No, I do not.
 2 MR. MORRIS: Again, objection, foundation.
 3 Q. (BY MR. CABOT): Is he -- is he pulling his arms
 4 away from you?
 5 A. He's pulling them in so that we can't put them in
 6 handcuffs. So no, he's not pulling arms away from
 7 us, but he's tightening them in under his -- under
 8 his body.
 9 Q. Okay. Did anybody put their knee in his back?
 10 A. I don't know.
 11 Q. Any need to put a knee in the back?
 12 A. I didn't, no.
 13 Q. Did you see a need to do that?
 14 A. Do I see the need?
 15 Q. Yeah.
 16 A. Oh, it's common when you put people in handcuffs and
 17 you're dealing with people on their back so they
 18 can't get up. It's a common practice.
 19 Q. Okay. But there would be no need to jam a knee in
 20 his back, would there?
 21 A. No, it's not a jamming a knee in the back. It's
 22 just placing your back of your knee across their
 23 shoulder blades so that they can't get up.
 24 Q. Well, I'm just asking --
 25 A. It's a restraint technique.

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1 Q. Okay.
 2 A. I think I did.
 3 Q. Okay. And then what happens after he's cuffed?
 4 A. We stand him up, we talk to him for a little bit,
 5 and we put him in the back seat of the police car.
 6 Q. At any time prior to you handcuffing him, did you
 7 ask for his name?
 8 A. No.
 9 Q. Did you ask to see an ID?
 10 A. No.
 11 Q. After he's cuffed, is that when you asked his name?
 12 A. Yes.
 13 Q. And what name did he give you?
 14 A. Mr. Laskey.
 15 Q. Okay. Did he have any type of ID on him?
 16 A. Yes.
 17 Q. And what did that ID say his name was?
 18 A. Laskey.
 19 Q. Okay. Did that match the description of the fellow
 20 you had in front of you?
 21 A. Yes.
 22 Q. Was the arrest continued?
 23 A. Yes.
 24 Q. Why?
 25 A. Because he was under arrest for disobeying a lawful

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1 command at that time.

2 Q. Okay. And what --

3 A. Had he stopped, we would have been able to ID him
4 and release him.

5 Q. Okay.

6 A. It would have taken about 15 seconds.

7 Q. But what was the disobeying of the lawful command?
8 When you guys were on the road and you said and he
9 didn't?

10 A. Yes.

11 Q. Okay. Anything else?

12 A. No.

13 Q. Mr. Laskey never gave you a fake name, did he?

14 A. No.

15 Q. Okay. Do you know why one of the counts against him
16 was giving a fictitious name to an officer?

17 A. I don't believe that's the count I have on here. I
18 think we charged him with hindering.

19 Q. Well, let's look at Exhibit No. 2 of Officer
20 Teolis's deposition. I'll have you take a look at
21 that and read count two for me into the record
22 please.

23 MR. MORRIS: I'm going to object. The
24 document speaks for itself.

25 MR. CABOT: Okay.

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1 Q. (BY MR. CABOT): Go ahead.

2 A. This is a charging document. Did furnish to a
3 police officer false, forged, fictitious or
4 misleading verbal or written information.

5 Q. Okay. Did he provide you with false or fictitious
6 information?

7 A. No.

8 Q. Do you know why that would be charged against him
9 then?

10 A. We charged him with hindering, which is a city
11 ordinance for like actually resisting an arrest. So
12 I'm not sure how -- I don't have anything to do with
13 that charging document.

14 Q. But you don't have an explanation why it's there, do
15 you?

16 A. Other than the one I gave you, I have no idea.

17 Q. Okay. And what was the explanation you gave me why
18 --

19 A. We charged him with --

20 Q. -- that charge is in there?

21 A. -- hindering.

22 Q. I understand that, but I'm asking count two, can you
23 explain to me why that charge of giving a false name
24 --

25 A. No.

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1 Q. -- is on Exhibit 2?

2 A. I don't have anything to do with that charging
3 document.

4 MR. MORRIS: Objection, asked and answered.

5 Q. (BY MR. CABOT): Who's responsible for that charge?

6 A. The court officer would do that.

7 Q. And that would be P.O. Strackbein,
8 S-T-R-A-C-K-B-E-I-N?

9 A. Yeah.

10 Q. And who is he or she?

11 A. He is the court officer.

12 Q. And what does he do? What's his job or her job?

13 A. He handles misdemeanor arraignments and the
14 charging. He gets misdemeanor warrants for the city
15 offenses.

16 Q. Does he get his information from the officers?

17 A. He gets them from the police report. Because we're
18 gone by the time he comes in. So we complete a
19 warrant request and -- and a report and he uses that
20 information to get -- to gain charges -- misdemeanor
21 charges.

22 Q. Okay. Did he ever talk to you about this case?

23 A. No.

24 Q. Did you ever appear at a hearing on the case,
25 testified at any hearing?

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1 A. I don't think so.

2 Q. Okay. These auto accidents that you were involving
3 in what's been the nature of those?

4 A. I'm not sure what the question is.

5 Q. Well, you indicated that you were let go from one of
6 the police departments because of a large number of
7 accidents. What are the nature of those?

8 A. The ones in Warren -- or in Walker were I slid off
9 the road and hit a pole while responding to an
10 officer down. The second one I was responding to an
11 apartment fire and I changed lanes in the rain and
12 struck a car that was next to me that I didn't see.
13 And the third one I just hit a parking pole in the
14 parking lot.

15 Q. Ever hit people?

16 A. No.

17 Q. Other than the one time where you hit another car,
18 any other vehicle-on-vehicle accidents that you've
19 been involved in?

20 A. Yes.

21 Q. How many?

22 MR. MORRIS: I'm going to object to relevance.

23 Q. (BY MR. CABOT): Go ahead.

24 A. Aside from the ones I already told you, one, two,
25 three -- three.

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1 normal traveling speed for somebody on a bike?

2 MR. MORRIS: Objection, lacks foundation.

3 Q. (BY MR. CABOT): Go ahead.

4 A. It appeared so.

5 Q. Okay. Did Mr. Laskey ever kinda seemed dazed or out
6 of it at all after the impact with the car?

7 A. I don't recall.

8 Q. You did have a gun that day, correct?

9 A. I'm sorry. What?

10 Q. You did have a gun that day?

11 A. He did? No.

12 Q. Did you?

13 A. I had a gun, yes.

14 Q. Your partner had a gun presumably?

15 A. Yes.

16 Q. Did you ever see Mr. Laskey -- did you ever force
17 Mr. Laskey to his knees?

18 A. No.

19 Q. Okay. Any reason to have forced him to his knees?

20 A. No.

21 Q. Okay. Do you think that would be excessive in this
22 case to force him to his knees?

23 MR. MORRIS: Objection.

24 Q. (BY MR. CABOT): Go ahead.

25 MR. MORRIS: Objection, form, go ahead.

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1 A. Oh, I'm sorry. What was the question again?

2 Q. (BY MR. CABOT): Would you agree it would be
3 excessive in this case to force him to his knees?

4 A. No.

5 Q. Why not?

6 A. He was going to go to the ground. We were ordering
7 him to ground. Whether he went forward to his knees
8 or backwards to his butt, but in this case, he went
9 backwards to his butt. Either way would have been
10 fine.

11 Q. Would if he was -- would if he was attempting to get
12 down on his knees or get down as you instructed, but
13 he wasn't going fast enough and you pushed him down,
14 is that appropriate?

15 A. No, it's not appropriate.

16 Q. It's excessive, wouldn't it be?

17 A. Yes.

18 Q. And at any time from beginning to end, did he ever
19 complain of any injuries, any problems he was having
20 with eyesight, vision, anything?

21 A. No.

22 Q. When you were originally driving next to Mr. Laskey,
23 once you turned around, did the u-turn, and you were
24 along side of him, how long do you think you were
25 along side of him time wise?

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1 A. 10 seconds maybe.

2 Q. Okay. And then you turned -- made that left turn
3 and stopped?

4 A. Yes.

5 Q. Okay.

6 MR. CABOT: I have nothing further.

7 EXAMINATION

8 BY MR. MORRIS:

9 Q. I have a few follow-up questions for you. Based on
10 the testimony you've given, how quick or what do you
11 think the time was from the time of impact of the
12 car to the time you got out of the vehicle, if you
13 know?

14 A. Just a couple seconds. I mean as soon as he hit the
15 car, I was getting out -- I mean I was getting out
16 to grab him.

17 Q. How quick -- from the time of impact from the time
18 you actually had him placed in handcuffs, what would
19 be your -- how long? Do you know?

20 A. Maybe a minute or so.

21 Q. And from the time of impact to the time when he was
22 reaching into his pocket, what timeframe do you
23 think that would have been?

24 A. Maybe 10 seconds.

25 Q. So in real-time, this was happening fairly quickly?

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1 A. Yes.

2 Q. In your experience as a police officer, I know I
3 walked in as you were doing it, roughly -- law
4 experience roughly 14 years at this point, correct?

5 A. Yes.

6 Q. In your experience in the law in 14 years, what is
7 your experience when somebody's reaching in for a
8 pocket -- in their pocket as you're trying to make
9 contact with them?

10 MR. CABOT: Object to form, speculation, go
11 ahead.

12 A. For us, it's a safety -- officer safety issue as we
13 treat anything -- any movements like that like as if
14 they were getting a weapon.

15 Q. (BY MR. MORRIS): So at that point, it would be
16 reasonable for you to have a heightened security,
17 correct?

18 A. Yes.

19 Q. When you received the call from dispatch regarding a
20 peeping Tom, do you remember them identifying a
21 vehicle or anything along those lines of the person?

22 A. They just said no vehicle was seen.

23 Q. Were you ever subpoenaed in this criminal matter?

24 A. I don't remember, sir, what happened -- what the --
25 what happened with the criminal case.

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1 Q. You don't remember if you had to go to court or
 2 subpoenaed for this matter?
 3 A. I don't.
 4 Q. And I believe you said you charged him with
 5 hindering, correct?
 6 A. Correct.
 7 Q. And opposing counsel asked you to read Exhibit 2,
 8 which looks like a warrant request, correct?
 9 A. Correct.
 10 Q. And you had nothing to do with the issuance of the
 11 warrant, correct?
 12 A. Correct.
 13 Q. You only had the responsibility of giving him the
 14 charge of hindering, correct?
 15 A. Correct.
 16 Q. So your arrest was based on hindering and not
 17 anything else?
 18 A. Our arrest is based on disobeying a lawful command
 19 and then the act of him like failing to comply with
 20 us and resisting our -- him putting on handcuffs is
 21 where the hindering came in.
 22 MR. MORRIS: All right, at this point, I think
 23 I'd like to go off the record, call and make sure --
 24 MR. CABOT: Let me just ask another question
 25 or two.

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1 RE-EXAMINATION
 2 BY MR. CABOT:
 3 Q. Can you explain to me or have any idea how count two
 4 on Exhibit 2 of your -- of Teolis's dep would have
 5 been there, i.e., giving a fake name? Do you have
 6 any idea how that might get there?
 7 A. No, we charged obstruct.
 8 Q. Okay. And did you ever tell Mr. Laskey to get his
 9 hands out of his pocket?
 10 A. I don't recall.
 11 MR. CABOT: I have nothing further.
 12 MR. MORRIS: Let me just call and make sure I
 13 wasn't -- she had any follow-up questions.
 14 MR. CABOT: Okay.
 15 MR. MORRIS: Since I wasn't here for the
 16 beginning.
 17 MR. CABOT: Oh, okay.
 18 MR. MORRIS: And then that way we'll be done
 19 and on our way.
 20 (Off the record at 12:55 p.m.)
 21 (Deposition concluded at 1:01 p.m.)
 22
 23
 24
 25

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